

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Stephen Abrams-Downey	Team: Squad #1	CCRB Case #: 201500206	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input checked="" type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Sunday, 01/11/2015 8:51 PM	Location of Incident: Beach 54th Street and Alameda Avenue	Precinct: 101	18 Mo. SOL 7/11/2016	EO SOL 7/11/2016	
Date/Time CV Reported Mon, 01/12/2015 3:13 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Mon, 01/12/2015 3:13 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. SGT Timothy Brovakos	01062	943025	PBQ/S
2. POM Robert Galgano	2194	954836	PBQ/S

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Christophe Clinco	18876	954646	PBQ/S

Officer(s)	Allegation	Investigator Recommendation
A.SGT Timothy Brovakos	Abuse: Sgt. Timothy Brovakos stopped § 87(2)(b)	
B.SGT Timothy Brovakos	Discourtesy: Sgt. Timothy Brovakos spoke discourteously to § 87(2)(b)	
C.POM Robert Galgano	Force: PO Robert Galgano used physical force against § 87(2)(b)	
D.POM Robert Galgano	Abuse: PO Robert Galgano frisked § 87(2)(b)	
E.POM Robert Galgano	Abuse: PO Robert Galgano searched § 87(2)(b)	
F.POM Robert Galgano	Off. Language: PO Robert Galgano made remarks to § 87(2)(b) based upon race.	
G.SGT Timothy Brovakos	Abuse: Sgt. Timothy Brovakos searched the car in which § 87(2)(b) was an occupant.	
H.POM Robert Galgano	Abuse: PO Robert Galgano searched the car in which § 87(2)(b) was an occupant.	
I.SGT Timothy Brovakos	Abuse: Sgt. Timothy Brovakos refused to provide his shield number to § 87(2)(b)	

Case Summary

§ 87(2)(b) filed this complaint by phone with the CCRB on January 12, 2015 (Board Review 01).

At approximately 8:51 p.m. on January 11, 2015, § 87(2)(b) and his uncle, § 87(2)(b) left their apartment at § 87(2)(b), in Queens, and walked towards their car, which was parked near the intersection of Almeda Avenue and Beach 54th Street. When they were outside the car, a marked police vehicle stopped and three uniformed officers, identified by the investigation as Sgt. Timothy Brovakos, PO Christopher Clinco, and PO Robert Galgano, approached § 87(2)(b) and § 87(2)(b). Sgt. Brovakos allegedly yelled, “Don’t fucking move” (**Allegations A and B**). PO Galgano pushed § 87(2)(b) s back against the side of the car, handcuffed him, and pushed the back of his neck, causing his face to hit the car (**Allegation C**). When § 87(2)(b) was handcuffed, PO Galgano patted him on the legs, waist, arms, and groin (**Allegation D**). PO Galgano also placed his hands inside § 87(2)(b) s pocket and removed his identification (**Allegation E**). At this time, PO Galgano allegedly said, “Shut the fuck up, nigger.” (**Allegation F**). Sgt. Brovakos and PO Galgano both went inside § 87(2)(b) s car, where they looked inside the cupholder and central console (**Allegations G and H**). § 87(2)(b) alleged that PO Clinco looked inside the car, but never entered the vehicle. PO Galgano wrote § 87(2)(b) a disorderly conduct summons for violent and threatening behavior and removed his handcuffs (Board Review 02). § 87(2)(b) repeatedly asked the officers for their shield numbers. PO Clinco provided his number, but Sgt. Brovakos allegedly replied “too bad” (**Allegation I**). The officers then returned to their vehicle and left the location § 87(2)(b) s CCRB statement Board Review 03).

§ 87(2)(b) spoke to the CCRB by phone on March 9, 2015. He stated that he did not wish to participate in this investigation.

Mediation, Civil, and Criminal Histories

§ 87(2)(b) rejected mediation § 87(2)(b). Neither § 87(2)(b) nor § 87(2)(b) filed a Notice of Claim in connection with this incident (Board Review 04).

§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Civilian and Officer CCRB Histories

- This is the first CCRB complaint filed by § 87(2)(b) (Board Review 06).
- Sgt. Timothy Brovakos has been a member of the NYPD for eight years. He has had twenty allegations made against him as part of nine cases. None of these complaints have been substantiated. Among these prior complaints are one stop allegation, which was closed as victim unavailable, one discourtesy allegation, which was closed as complainant uncooperative, one refusal to provide name and shield number allegation, which was closed as unsubstantiated. He has not had any previous vehicle search allegations (Board Review 07).
- PO Robert Galgano resigned from the NYPD on April 24, 2015. He had five CCRB allegations made against him as part of one prior case. § 87(2)(g)

Findings and Recommendations

Identification of Subject Officers

In his initial phone statement, § 87(2)(b) said that the officer who used physical force, frisked and searched him, used offensive language, and searched his vehicle, had a shield number of 2194. This information corresponds with PO Robert Galgano of Patrol Borough Queens South. PO Galgano wrote the summons which was issued to § 87(2)(b) during this incident. § 87(2)(g)

§ 87(2)(b) A request to MAS confirmed that PO Galgano resigned from the NYPD on April 24, 2015 (Board Review 9). He was not interviewed by the CCRB.

§ 87(2)(b) stated that the officer who stopped him, spoke discourteously to him, searched his car, and refused to provide his name and shield number, had a gold shield and chevrons on his uniform's shoulder. Sgt. Timothy Brovakos of Patrol Borough Queens South, who was PO Galgano's partner at the time of the incident, was the only sergeant on the scene. § 87(2)(g)

Allegations Not Pleaded

Sgt. Brovakos and PO Clinco both testified that they observed § 87(2)(b) before they exited their vehicle and stopped him. § 87(2)(g)

PO Galgano allegedly said, "Shut the fuck up, nigger" during this incident. The discourtesy in this statement was subsumed within the more serious offensive language allegation and has not been pleaded separately.

§ 87(2)(b) alleged that PO Clinco looked inside the car from outside the front passenger door. However, he was not alleged to have entered the vehicle at any point. § 87(2)(g)

According to his phone statement, § 87(2)(b) read PO Galgano's shield number from his chest during the incident. Though § 87(2)(b) stated that he made a general request for shield numbers near the conclusion of the incident, there is no indication that this was directed towards PO Galgano. § 87(2)(g)

Recommendations

Allegation A: Abuse of Authority – Sgt. Timothy Brovakos stopped § 87(2)(b)

It is undisputed that Sgt. Brovakos, PO Clinco, and PO Galgano stopped § 87(2)(b) as he and § 87(2)(b) walked to their parked car near the intersection of Almeda Avenue and Beach 54th Street.

§ 87(2)(b) stated that he and his uncle left their apartment building and walked immediately to their car. They did not make any stops between these two locations. § 87(2)(b) said that he was wearing a knit black cap, a brown jacket, and jeans. He held a pack of cigarettes in his left hand and black gloves in his right rear pants pocket. He did not remove these gloves from his pocket at any point before the officers stopped him. § 87(2)(b) stated that he and his uncle got to their car and opened the doors, but did not enter before the officers approached them.

In his CCRB statement, Sgt. Brovakos stated that the officers received a radio message reporting a robbery at a Dunkin Donuts on Beach 59th Street and Beach Channel Drive. This was approximately four blocks west of the location where § 87(2)(b) was stopped. The report said that the robbery took place five minutes earlier and that the suspect fled the scene on foot, eastbound. According to Sgt. Brovakos, this report described the suspect as a black male with a black firearm, a dark jacket, blue jeans, and a facemask. Sgt. Brovakos did not recall if the report mentioned if the suspect was alone or accompanied by any other individuals. When Sgt. Brovakos first observed § 87(2)(b) he was in a location two to three blocks from the site of the robbery. Sgt. Brovakos described § 87(2)(b) as a black male wearing a dark jacket and blue jeans. He did not believe that § 87(2)(b) wore a mask at this time. Sgt. Brovakos observed a black object sticking out of § 87(2)(b)'s right rear pants pocket. Sgt. Brovakos stated that § 87(2)(b) walked up to his car, opened the door, looked in the direction of the police car, and threw this item near the front passenger seat. Sgt. Brovakos later learned that these were § 87(2)(b)'s gloves. At the time, however, he believed that they may have been a gun, due to their dark color. Sgt. Brovakos and the other officers then exited the vehicle and approached § 87(2)(b) because he generally matched the description provided in the radio report and because he may have deposited a weapon in the vehicle (Board Review 10).

PO Clinco generally corroborated the statement provided by Sgt. Brovakos. However, he did not recall what description was provided for the robbery suspect, apart from the fact that he was a black male. PO Clinco also did not recall what § 87(2)(b) was wearing at the time of the incident. Finally, PO Clinco testified that § 87(2)(b) removed the black gloves from his pocket after the officers had stopped him (Board Review 11).

In Sprint D15011118801, a 911 caller reported an armed robbery at a Dunkin Donuts on 59-14 Beach Channel Drive at 8:27 p.m. on January 11, 2015. The caller described the suspect of this robbery as a black male, with a black jacket, blue jeans, a black knit cap, and a face mask. The man left the scene of the robbery and went eastbound on foot on Beach Channel Drive (Board Review 12).

PO Galgano prepared a Stop, Question, and Frisk Report for this incident. He wrote that § 87(2)(b) was stopped because he fit the description of a robbery suspect, made furtive movements, made actions indicative of engaging in violent crimes, and wore clothing commonly used in the commission of crime. PO Galgano also stated that the officers observed a black object in § 87(2)(b)'s back pocket (Board Review 13).

An officer may forcibly stop or pursue an individual if they have reasonable suspicion to believe that the person being stopped has committed or is about to commit a crime. People v. De Bour, N.Y.2d210 (1976) (Board Review 14).

Police officers have reasonable suspicion to detain an individual if that person generally matches the description of a suspect, the individual is in close proximity to the site of the crime, and a short amount of time has elapsed between the commission of the crime and the officers observation of the individual. People v. Bennett, 37 A.D.3d 483; N.Y.S.2d206 (2007) (Board Review 15).

§ 87(2)(g)
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§ 87(2)(g)

Allegation B: Discourtesy – Sgt. Timothy Brovakos spoke discourteously to § 87(2)(b)

§ 87(2)(b) alleged that Sgt. Brovakos said, “Don’t fucking move” as he and the other officers first exited their vehicle to stop § 87(2)(b)

Sgt. Brovakos denied that he used the phrase “don’t fucking move.” He stated that neither he nor any other officer used any profanity during the incident. PO Clinco testified that he did not hear any officer use profanity during this incident.

§ 87(2)(g)

Allegation G: Abuse of Authority – Sgt. Timothy Brovakos searched the car in which § 87(2)(b) was an occupant.

It is undisputed that Sgt. Brovakos and PO Galgano searched § 87(2)(b)’s vehicle.

§ 87(2)(b) alleged that the two officers entered the car through the front passenger seat after PO Galgano handcuffed and searched him. § 87(2)(b) stated that he saw the officers look inside a cupholder and the central console. This console was open and did not require the officers to open a lid. § 87(2)(b) could not determine whether Sgt. Brovakos and PO Galgano went into the back seat, because he stood near the rear of the vehicle.

Sgt. Brovakos testified he went into the front passenger seat of the car to recover the black item he saw § 87(2)(b) throw into that area. He immediately saw § 87(2)(b)’s gloves on the floor, directly in front of the passenger seat. Sgt. Brovakos picked the gloves up and exited the car. He denied looking in any other areas of the car or opening any containers or compartments while inside the vehicle. After searching the car, Sgt. Brovakos attempted to call the 911 caller from Dunkin Donuts to verify whether § 87(2)(b) was the robbery suspect. He removed § 87(2)(b)’s handcuffs when he was unable to get through to this individual. PO Clinco testified that he did not see if either Sgt. Brovakos or PO Galgano entered the vehicle at any point.

Under the automobile exception to the warrant requirement, an officer may search a vehicle if he has probable cause to believe that it contains contraband or evidence of a crime. People v. Galak, 81 N.Y.2d463 (1993) (Board Review 16).

Officers are permitted to conduct a limited vehicle search to retrieve a weapon inside if they reasonably believe that it poses an immediate threat to their safety. However, this exception does not apply when the suspect has been removed from the vehicle and no longer has access to the weapon. People v. Torres, 74 N.Y.2d224 (1989) (Board Review 17).

§ 87(2)(g) [REDACTED]

§ 87(2)(g) [REDACTED]

§ 87(2)(g) [REDACTED]

§ 87(2)(g) [REDACTED]

Allegation I: Abuse of Authority – Sgt. Timothy Brovakos refused to provide shield number to § 87(2)(b)

§ 87(2)(b) stated that he asked the officers for their shield numbers as they returned to their vehicles near the conclusion of this incident. He alleged that Sgt. Brovakos replied, “Too bad” and then returned to the police car. He said that PO Clinco provided his shield number verbally and he read PO Galgano’s information earlier in the incident. § 87(2)(b) did not provide any identifying information for Sgt. Brovakos during his CCRB interview.

Sgt. Brovakos testified that § 87(2)(b) asked the officers for their names and shield numbers multiple times. They all provided this information verbally. In his testimony, PO Clinco said that Sgt. Brovakos provided the names and shield numbers of all three officers in response to § 87(2)(b)’s requests.

§ 87(2)(g) [REDACTED]

Allegation C: Force – PO Robert Galgano used physical force against § 87(2)(b)

Allegation D: Abuse of Authority – PO Robert Galgano frisked § 87(2)(b)

Allegation E: Abuse of Authority – PO Robert Galgano searched § 87(2)(b)

Allegation F: Offensive Language – PO Robert Galgano made remarks to § 87(2)(b) based upon race.

Allegation H: Abuse of Authority – PO Robert Galgano searched the car in which § 87(2)(b) was an occupant.

As discussed above, PO Galgano resigned from the NYPD on April 24, 2015. § 87(2)(g)

Team: _____

Investigator: _____	_____	_____
Signature	Print	Date

Supervisor: _____	_____	_____
Title/Signature	Print	Date

Reviewer: _____	_____	_____
Title/Signature	Print	Date

Reviewer: _____	_____	_____
Title/Signature	Print	Date